



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 29, 1996

Mr. Richard D. Monroe
Deputy General Counsel
Texas Department of Transportation
Dewitt C. Greer State Highway Building
125 E. 11th Street
Austin, Texas 78701-2483

OR96-0462

Dear Mr. Monroe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID #38684.

The Texas Department of Transportation (the "department") received a request for information pertaining to:

- (1) "a copy of the petition filed by the City of Laredo concerning the alignment of FM 3464 or the access road from I.H. 35 to the new (fourth) international bridge in Laredo, Texas" and
- (2) "a copy of the Laredo District Report responding to that petition."

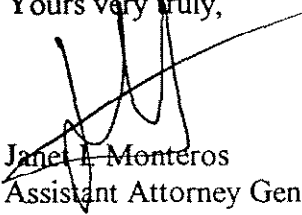
You indicate that you have released a copy of the petition filed by the City of Laredo but that you seek to withhold the copy of the Laredo District Report and claim it is excepted under section 552.111 of the Government Code

Section 552.111 excepts "an interagency or interagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.-Austin 1992, no writ), and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. Nonetheless, section 552.111 does not except from disclosure purely factual information that is severable from the opinion portions of

internal memoranda. Open Records Decision No. 615 (1993) at 4-5. While portions of the document pertain to the policy functions of the department, some of the information contained in the document is purely factual. We agree that portions of the report contain advice, recommendation, and opinion reflecting the policymaking processes of the department. We have marked that information which may be withheld under section 552.111. The remainder of the document must be released to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Janet E. Monteros
Assistant Attorney General
Open Records Division

JIM/ch

Ref.: ID# 38684

Enclosures: Submitted documents

cc: Ms. Celina Romero
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(w/o enclosures)